

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISALND

IN RE: MORTGAGE FORECLOSURE CASES) Misc. No. 11-mc-88-M-LDA

)

DEFENDANT'S MEMORANDUM IN OPPOSITON TO PRELIMINARY INJUNCTION

Now comes the Defendant, Acqua Loan Services, (designated as Aqua Loan Servicing in the caption of the pertinent case) and hereby files this response to the court's order dated June 19, 2013. The particular case is Michael Perretta, et al. v American Residential Equities LIX, LLC, et al., No.12-cv-927. In that order of June 19, 2013, the court requested the parties to submit memorandum stating their respective positions on the issue of whether the stay imposed by the court on litigation meets the requirements of Federal Rules of Civil Procedure, Rule 65. This Defendant states that it does not. The court should terminate the said stay and not afford the Plaintiffs any injunctive relief.

Previously, this Defendant sought relief from that stay pursuant to the court's order dated January 7, 2013. In that order the court stated that in certain cases a defendant can prove that it is not a proper party to the action and that the stay should be lifted as to it. Pursuant to that order, this Defendant did send to the Special Master a letter dated May 11, 2013 wherein it stated that it was not a proper party to the lawsuit, that it was not in a position to provide any relief to the Plaintiffs and that the stay should be lifted as to it. The Deputy Special Master forwarded the letter to the Plaintiffs' attorney stating that he needed to respond to the request. The Plaintiffs' attorney asked for and received at least two extensions of time to file his response. Although more than a month has transpired since that letter was received by the office of the Special Master, no response has been filed.

If the Plaintiffs cannot prove that this Defendant is a proper party to the aforesaid lawsuit than it follows that they would not be able to establish their entitlement to injunctive relief. The burden

on them to establish their entitlement to injunctive relief certainly would be a greater one than the burden to establish that this Defendant is a proper party to the case.

The legal arguments against the issuance of a preliminary injunction and the continuation of the stay which is, in effect, an improper injunction have been well presented by the various other defense counsels in their memoranda filed in opposition to injunctive relief. See, ECF 2175 and ECF 2180. Their legal analysis is well founded. Repetition of these arguments and citations to the controlling cases is unnecessary. This Defendant relies upon and incorporates by reference the arguments set forth in the above referenced filed documents. Any repetition by the undersigned attorney would add nothing to that which has been presented.¹

Respectfully submitted

Defendant Acqua Loan Services

/s/ William M. Walsh

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¹ Would I had phrases that are not known, utterances that are strange, in new language that has not been used, free from repetition, not an utterance which has grown stale, which men of old have spoken. **Egyptian Inscription Recorded at the Time of the Invention of Writing.** [Rand Lindsly's Quotations](#).

